

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN JERRY O'NEIL**, on March 10, 2003 at 3 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Jerry O'Neil, Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Brent R. Cromley (D)
Sen. John Esp (R)
Sen. Dan Harrington (D)
Sen. Trudi Schmidt (D)

Members Excused: Sen. Duane Grimes, Vice Chairman (R)
Sen. Bob DePratu (R)
Sen. Emily Stonington (D)

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Andrea Gustafson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HJ 13, 2/25/2003; HB 180 2/25/2003;
HB 542, 3/5/2003
Executive Action: HB 542; HJ 13

HEARING ON HJ 13

Sponsor: REP. DAN HURWITZ, HD 40, White Sulphur Springs

Proponents: Gail Gray, Director, DPHHS

Opponents: None.

Opening Statement by Sponsor:

REP. DAN HURWITZ, HD 40, White Sulphur Springs, said he was asked to carry the bill because so much money was being spent in the Department of Public Health and Human Services. He said on line 16, it said it was almost a billion dollars. About \$267 million was the general fund and more than \$800 million were federal funds. He said there were others there to explain the resolution with more detail.

Proponents' Testimony:

Gail Gray, Director, DPHHS, said the resolution required a study and evaluation, and recommendations related to publicly funded healthcare in the State of Montana. She said this included programs such as Medicaid, which was by far the largest one, the Children's Health Insurance Program (CHIP), the Children's Special Health Program, and Mental Health Services Plan. She publicly thanked REP. HURWITZ for carrying the bill. **Director Gray** said the Medicaid program, a \$550 million program per year, was jointly funded by the state and the federal government to pay for medically necessary care for the poor and the disabled. Within broad guidelines included in the federal regulations the state determined what services, what eligibility level, what type of program administration needs for the particular programs. In Montana, the legislature had chosen to have a broad Medicaid services package that included most of the options allowed under federal regulation. However, Medicaid eligibility in Montana was at or near federal minimums. The program covered more than 100,000 individuals in a year, which translated to approximately 78,000 per month. Expenditures for Medicaid totaled more than \$500 million a year and was projected to grow larger in future years. The second program that would be included in the redesigned plan was CHIP, the Children's Health Insurance Program. The program provided health insurance to more than 9,000 children in the state. The program began in 1999 and had spent more than 15 million dollars in the fiscal year 2002. It was also a combination federal/state partnership. It enjoyed a favorable match of 81% federal to 19% state fund for every dollar spent. Eligibility for the CHIP program was at 150% of the

federal poverty level. The program, and DPPHS specifically contracted with BCBSMT to provide insurance for children covered under CHIP. A separate contract was in place for vision and dental services as well. The Mental Health Services Plan was a state only plan. It paid for mental health services for people that were not eligible for Medicaid and had incomes that were at or below 150% of the poverty level. Program expenditures totaled to more than \$11 million for fiscal year 2002 and more than 5,000 people were served. Services in this area included counseling, prescription drugs, and other services related to a diagnosis of mental illness. It was a specialized program for a population with special needs. The executive budget included decision packages which reduced the program by approximately \$8 million dollars a year. Not all the programs were going up concerning cost in appropriations. The Medicaid program had grown from a \$134 million program in 1987 to more than \$500 million in 2002. The eligibility had remained constant. Services had been added or deleted over the last 10-15 years. For example, residential psychiatric services for children were added in the early 1990's. Licensed professional counseling was added in 1995. They experimented with mental health's managed care in 1997 and ended that program in 1999. **Director Gray** said the point was that as a state, they tried hard to improve Medicaid over the years. Some changes such as the Passport program, which was a managed program for people that were on TANF, Temporary Assistance to Needy Families had been very successful. With the continued growth in expenditures, the Montana Medicaid program clearly needed to be fully evaluated. They hoped the particular plan would help provide the department and the legislature with a comprehensive plan including options for improvement and overhaul if appropriate. If nothing else, they would review their current programs, validate their effectiveness or ineffectiveness. It should help the department ensure the various health care programs were integrated and working in the most efficient manner, so they could address the common needs of their clients, their providers, and the best interests of the taxpayers. She introduced John Chappius, who served as deputy for DPHHS. He was the architect of the redesigned plan. She said the department hoped HJ 13 would be concurred in.

Opponents' Testimony: None.

Informational Testimony: **John Chappius, Deputy Director, DPHHS** said he was available for any questions.

Questions from Committee Members and Responses:

SEN. GRIMES asked **Director Gray** what she meant when she said the state was at minimums. **Director Gray** said if a person was going

to participate in the Medicaid in the state, there were certain minimums. Children had to be included up to 133% of poverty. Some states go up to 200% poverty, but Montana was at the minimum that the federal government required. That percentage was different in many other areas. She said Montana had a Medicaid program that was very broad. There were lots of services, but did not go very deep in terms of the percentage of poverty that they cover.

SEN. GRIMES asked if there was any criticism on the house side about potential things that people did not want scrutinized.

Director Gray said they had a very positive hearing. Her perception of what the committee wanted was to go out, to look at it very carefully, to talk to people who were receiving services, to people who were providing services, people who were advocating for services, and look at this in total and come back with recommendations. For instance, they might come back and say they needed to do what Oregon did, where they ranked the type of service they provided under their Medicaid program. They spent their Medicaid appropriations up to the point at which they ran out of money and did not go any further. She said she was not saying they would do this, but it would be the type of thing they would be examining. They might say more services needed to be provided to children and less for people at the other end of their life. It was the type of difficult discussion needed in a time when all the services Montana had committed to could not be provided at this point. It was not unique to Montana. It was a nationwide issue.

SEN. JOHN ESP, SD 13, Big Timber, asked about the demographics of the 78,000 people who were on Medicaid each month. **Director Gray** said most of the people were under either the TANF program or a low income. There was another group that was much smaller, the disabled. Although there was a lot less of them, they cost much more. The cost for a child on Medicaid was up to \$2000 per year. A disabled person who was eligible for Medicaid cost from \$8000 to \$11,000 a year. The big numbers were in children and adults, but they did not cost much per person to serve.

SEN. ESP asked for the Medicaid percentage match. **Director Gray** said it was 73% federal, 27% state.

SEN. ESP recalled **Director Gray's** comments about the budget reduction under the Governor's budget in the Mental Health Services Plan and wanted to know whether that was over the biennium or was it per year. **Director Gray** said it was over the biennium. There was money added to Medicaid to serve people with mental health issues. The department was looking at a re-

allocation for some of that. As an agency, they were trying to refinance so that they could take advantage of the most federal programs they could, because of that match.

SEN. ESP said in essence they were going to from eleven to around seven to match the federal fund with the Medicaid dollars.

Director Gray said within their portion of HB 2 that would be discussed there was another \$8 million in there for prescription drugs for people in the Mental Health Services Plan. Right now, it was in a special stabilization account that did not have enough money in it to actually preview the expenditure of it. She said they were early in that process.

SEN. EMILY STONINGTON, SD 15, Bozeman, said they had discussed this as a Medicaid study in her subcommittee and it looked from the amendments that it had been expanded considerably. She was concerned about diffusing their energies so much that the Medicaid study portion of it could not be done well. She asked **Director Gray** to comment on that. **Director Gray** said they really wanted to have that amended so that it would be all publicly funded, health services, so when the program was looked at as a whole, they would be looking at the CHIP program, the Mental Health Services Program, and at Medicaid. She thought they needed to look at it as a whole to decide how best to spend the money that was available. They strongly supported that. She said they had a person under contract who was doing some preliminary work on this issue. It was something they could technically could do without the legislature's support, but thought it was so important that whatever came out of it would come back to the legislature. They wanted their advice and consent on it.

SEN. GRIMES asked if **REP. HURWITZ** was comfortable with the amended language coming out of the house. **REP. HURWITZ** said he was comfortable but at the same time, he said he did not have a lot of knowledge in the area. They went over it very carefully and they did put in several amendments. One was to be sure that the CHIP program was in there, which was on lines 12 and 13. There was some problem with lines 29-30 and they made sure the Indian Health Service was part of that. Those were the areas that most people were concerned about.

SEN. GRIMES said he noticed there was no fiscal note and asked if this would be done with existing resources. **REP. HURWITZ** said that was correct.

Closing by Sponsor:

REP. HURWITZ closed.

SEN. GRIMES said he would carry HJ 13, should it be concurred in.

HEARING ON HB 180

Sponsor: REP. EDITH CLARK, HD 88, Sweetgrass

Proponents: Kristi Blazer, Rimrock Foundation
Don Hargrove, Mental Addiction Services Program
Mike Rupert, Boyd Andrews Community Services
Shelley Johnson, ADSAC, Bozeman
Charles Brooks, Yellowstone County Commission
Roger Curtiss, A & D, Anaconda
Mona Jamison, Boyd Andrews Community Services
Jean McCauley, AMDD, Director of Treatment Services

Opponents: None.

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, said HB 180 allocated liquor license fees, beer and wine tax revenues to the Department of Public Health and Human Services. It was a change statutorily appropriating most that revenue to state approved public and private chemical dependency programs. It went to those entities as a grant for treatment of persons with chemical dependency problems and co-curring mental illness. HJR 1 was passed by the 2001 Legislature that directed the legislative Finance committee to study public mental health issues. They formed a subcommittee that made up of several other interim committees of which she was on the Veteran's Affairs interim committee and from there served on the HJR 1 subcommittee. They studied the issues and decided on cog bill drafts (?) and it was a bill recommended for legislation. It was recommended to ensure that the local chemical dependency programs had reliable funds. It wanted programs to have the flexibility to use the funds that best suited their program and to ensure that the programs would serve persons who were chemically dependent and mentally ill. The percentages allocation was based on the historic amount with the counties with the approved programs had always received. It was 20% or \$1 million. In fiscal 2002 programs serving diagnosed persons received 6.6% of the allocation. There were 27 approved programs and they served all 56 counties. Alcohol tax money had supported the programs since 1979. There was no general fund impact.

Proponents' Testimony:

Kristi Blazer, Rimrock Foundation, said Rimrock Foundation was a chemical dependency provider in Billings, MT. Rimrock was one

of 27 approved programs that received alcohol excise tax money for the treatment of those addicted to alcohol. She said her client enthusiastically supported HB 180 and urged that it remain in the form drafted and not be amended in any way. The percentages found in the bill were developed by HJ 1 subcommittee, an interim committee that worked long hours on the spending topic, heard extensive testimony, and made the recommendation of those percentages being the best way to fund chemical dependency treatment. They believed HB 180 was the most important bill since 1979 regarding chemical treatment because it guaranteed most the alcohol excise tax money to be earmarked for treatment. She emphasized that it was not a new statutory appropriation and it was not an increase in funding. It had zero impact on the general fund. What it did do was continue to earmark the alcohol excise money in a way that made more sense than the 1979 method. Page 6 of the bill reads, *"The remainder of the proceeds that are not appropriated, as provided in subsection (3)(a), or that are not statutorily appropriated in 53-24-108(1)(b) must be distributed to the counties for use by approved private or public programs."* She researched this and said this was the one statutory appropriation done in that fashion, the "remainder" type of number. Instead, most statutory appropriations were done in a percentage fashion or by means of some set numbers in the bill. The legislature could appropriate away all the money if they so chose, but they had never done that. The possibility had existed and it was not a secure method to run the programs that run the chemical dependency system. **Ms. Blazer** said she had looked at some examples of other statutory appropriations to show that using a percentage method was a standard method. She gave several examples, one under statute 15-65-121, the money was collected from the lodging facilities use tax and was done under a percentage basis to the Montana Historical Society, etc. The need for the measure was to protect the money from being used for other purposes. **Ms. Blazer** said for the last two sessions, she had represented Rimrock in a fight to keep the money when mental health had been trying to take it. She said looking at the comparative budgets between mental health and AMDD, mental health in fiscal year 2002 was \$117 million, while AMDD was only nine million dollars. The million plus being talked about, would not make a difference to mental health, but would make all the world of difference to the chemical dependency programs, which have always lived within their means. They had not been back since 1979 asking for more money. She acknowledged that earmarking had fallen into disfavor as a tax policy. She said with respect to earmarking at this time, HB 88 at the current session talked about the factors when earmarking was appropriate. She believed the fund met those criteria. One criteria of the program provided direct benefits to those who pay the dedicated tax. The people who buy the beer and the wine end

up paying for those who had the problems with that. A second criteria was the tax was commensurate with the cost of the program. The third criteria, there was appropriate collection and allocation formulas. Under the proposal, the money would continue to go to counties based on the formula of geography and population. **Ms. Blazer** handed in written testimony for **Marla Sumner, Chief Executive Officer of Rimrock Foundation.**

EXHIBIT (phs50a01) **Ms. Sumner** asked that a summary of a book called Alcohol: Cradle to Grave by Eric Newhouse be handed in with her testimony. **EXHIBIT (phs50a02)** It was about Montanans and about the problems alcohol had generated in Montana. It was about \$19 million in direct costs that Montana pays for the cost of alcoholism and the hidden costs were much greater.

Don Hargrove, Mental Addiction Services Program, said MASP was an organization of several organizations and facilities that provided intervention services for chemical dependency and addictive disorders. He handed in testimony for **Robert Ross, Executive Director of the Mental Health Center (MHC).**

EXHIBIT (phs50a03) He urged the committee to read Cradle to Grave and for HB 180 to be concurred in.

{Tape: 1; Side: A}

Mike Rupert, Boyd Andrews Community Services, CEO, said they provided chemical dependency services to Lewis & Clark, Broadwater, and Jefferson counties. He asked for support of HB 180. It was not a bill they initiated or any provider initiated or any of the stake holders initiated. It was a bill that was a result of an independent committee that in its judgment viewed it as good sound policy. Alcohol tax money was important to programs because it was the only significant source of government monies that they receive that was not laden with strings. It did not involve micro-management from either the state or the federal level of bureaucrats. He said they were bound by public law to provide services to anyone who walked in their door. They were happy to do that, but unfortunately some requirements they had to abide by to get their federal block grant money and SAFE block grant money and to get federal Medicaid money, were to spend on only those who met the criteria set forth by the bureaucrats. They were not allowed to spend tax money on those who did not meet the criteria. For example, income requirements, sources of referral, justice systems were a few. The alcohol tax money has no such strings. It allowed them to provide services to the working poor that the other sources of funds do not always allow them to do. **Mr. Rupert** said they were in the middle of negotiations with the state to try to ease up some restrictions. As it stood now, the alcohol tax money was the only source of funds that allowed them to give service to anybody and did not

restrict the kinds of services provided, which the other sources did do. It gave them flexibility and they believed flexibility had contributed to their success over the year. He said if all the provider systems in the state, mental health and chemical dependency were looked at, what would be seen was the chemical dependency system was one of the most, if not the most successful. It was because of the alcohol tax money. He strongly urged for support.

Shelley Johnson, Alcohol & Drug Services of Gallatin County, read and submitted her written testimony. **EXHIBIT**(phs50a04)

Charles Brooks, Yellowstone Board of County Commissioners, Montana Association of Counties, referred to **Robert Ross'** letter submitted earlier by **Mr. Hargrove**. He said there was a statement in there that **Commissioner Kennedy** asked that he express. He read, "I believe at the passage of this bill, House Bill 180, will ensure the ongoing stability of chemical dependency services and guarantee a fixed amount of revenue that will enable all the providers to operate in each of the small communities." **Mr. Brooks** urged support of HB 180.

Roger Curtiss, Alcohol & Drug Services of Anaconda, Director, said he wanted everyone to know how important HB 180 was to the county programs. He had been in the alcohol and drug profession for more than 20 years, starting in Butte and working in 18 different counties throughout the state of Montana. One of the most important things the committee could do was to be proactive with the bill. He said there had been a tremendous amount of things that had happened during the current legislative session that related to the DUI program, underage drinking, and open containers. He thought it wonderful to see the House and the Senate address a battle with an ongoing basis in the community. He encouraged support of HB 180.

Mona Jamison, Boyd Andrews Community Services, said that rather than repeat what most have already said, she wanted to bring a different perspective to it. First, the history: In 1979, there was a deal made that with the imposition of the taxes on beer and wine, some of those funds would go to serve treatment and rehabilitation for persons who had developed problems. The way the statutes were structured from that point, although they would be tweaked in one session or another, the programs and the services that were to be funded by the tax were always in there every session battling for every penny. This was although the quid pro quo was, "Okay, we will impose the tax. We will make certain that some of those taxes go for treatment." **Ms. Jamison** said historically, it had been around a million dollars the programs ended with over the last 8-10 years after much of the

other funds (about \$4 million) were generated from the tax. The funds were then appropriated to the Department of Public Health and Human Services. DPHHS then entered an agreement with programs approved by the counties. There was much local opinion in the examination of the programs that would provide the services. She said the beauty of it was when the county looked at the programs that come in that have asked to provide the services and receive some funds, the statutes required that there be no duplication of services. A maximum of operational and economical efficiency was already built into the system. Only one program in each county would be getting funds from the department to provide the services. **Ms. Jamison** said what the bill did was stop any fighting over the money because the percentages resolved that. If more people were having more problems as a result of drinking more that percentage may rise. It also meant that if people started drinking less, the percentage would be less. It did not mean more money would be given, it just meant a certain percentage of the taxes collected on the alcohol. She said the bill improved the system, helped people conserve their energy where it needed to be conserved, and asked the programs have the stability they need to function, so that there was no longer a question each session. She asked that the programs be able to function out of the expectation through statutory appropriation of the percentage.

Jean McCauley, Director of the South West Chemical Dependency Center, said they did treatment services in Park, Meagher, Madison, and Beaverhead counties. She wanted to add that the alcohol earmarked tax to them took care of the financial responsibilities that they had with their business for things that happened after 5:00 in the evening. The advocates went to the jails for each crisis which affected every system in their community that included the hospitals and the mental health services.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER, SD 7, Billings, asked if he understood correctly that the 27 approved alcohol/drug facilities were receiving about \$1 million. **REP. CLARK** said yes.

SEN. BOHLINGER asked if that were an adequate amount of money for a problem he thought was huge and growing. **REP. CLARK** said that if they could get more money, they would love to have it. She said historically the amount had served them well. They had used the money wisely, it had fit their needs, and had provided flexibility they needed to continue their programs.

SEN. BOHLINGER said it appeared to him that Montana's tax on beer and wine was lower than the national average. He wondered if they should look at raising taxes in those areas and should consider looking at it later.

SEN. ESP said last session a section was put in saying a million dollars would be used for this and \$730 million would go directly to the counties. He asked if during the interim they found that was not a successful way of doing it. He thought some money was to be used to leverage Medicaid coverage for some co-occurring disorders. He asked why they were attempting to change it. **REP. CLARK** said they were trying to keep the funding to the programs stable and this was the way to do it.

SEN. ESP said he missed some of the hearing and asked if 20% was about a million dollars. **REP. CLARK** said yes and that 6.6% was for co-occurring mental illness.

SEN. ESP said he heard there was only one program per county allowed. **Ms. Jamison** said yes to the best of her knowledge.

SEN. ESP said his question was that Yellowstone county had mental health services and the Rimrock Foundation. Was the mental health service the only one that got funded. **Ms. Blazer** the money went to the county to be distributed. The money Rimrock received from the county was used for a public detoxification center. It was one of a kind in the state that was not attached to a hospital. Yellowstone County decided to do that with their alcohol tax money. Other counties had decided other things. She said that was why having the money available was so important because each county had made a decision as to its priorities on how to spend the money. Money for the mental health system came from other things. The alcohol excise money that came to Yellowstone County, a significant portion was used for the detox center.

SEN. ESP clarified by saying Yellowstone County took their share of the million dollars and that all went directly to Rimrock.

Ms. Blazer said she did not believe any of the alcohol tax money did except for the co-occurring illness portion of it. It was in the statute that the moneys be used for the treatment of chemical dependency, the earmarked part. Some did go to other things.

Mr. Rupert said to the best to his knowledge, the way Yellowstone County worked, the county commissioners split the money. Rimrock got some money for detox and some went to the mental health center for outpatient services.

SEN. ESP asked how Lewis & Clark, Jefferson, and Broadwater counties handled their money.

Mr. Rupert said it was all outpatient service. There was also a transitional living facility. The county commissioners could if they chose, take half or all the money and use it for detox or use it for anything they wanted.

SEN. STONINGTON said she and **REP. CLARK** were both on the HJR 1 subcommittee and needed help reconstructing some discussions they had. She remembered that because there was such urgency to use the maximum amount of money for Medicaid matches. Because the rest of the demands might be for chemical dependency treatment there was a special piece put together for co-current illnesses on a one time basis in the last session of the legislature. She recalled that when all that came to the subcommittee they thought, given the budget crisis they knew was on their doorstep, they wanted to make sure the chemical dependency programs got what they historically got and thought the co-curring illness was a really good use of some of that alcohol money. They would sacrifice some of that money that could potentially go to Medicaid matches because they were prioritizing the chemical dependency and co-curring illness treatment fund. She asked if she remembered that correctly. **REP. CLARK** said yes.

SEN. STONINGTON said they went through some questions that **SEN. ESP** was asking and came to the conclusion as a subcommittee that these programs were important enough to forego that amount of Medicaid matches.

{Tape: 1; Side: B}

SEN. ESP tried to remember from the last session if it were talked about that the counties would have gotten \$750,000 under the old way as it was done before. He was trying to get it straight as to the amount, if it were that or the million dollars. **Ms. Jamison** said to look at Page 2 of the bill, Lines 27-30 and then it continued onto the top of the next page. There was language there enacted at the summer special session, reminding him the reason for the special session was because of the budget crisis and there was an examination of all funds, all revenue sources. She said that was why it was stated, which was why it was only a temporary section, that the compromise would only be in effect until July 1, 2003. What the section did was instead of taking the historical million from the alcohol tax, \$750,000 was taken instead and distributed the existing way to the county approved programs. It allowed the department to get the rest of the funds, see Page 3, Lines 2-3, from a combination of funds generated by those funds and any other way they could

come up with the money. The rest of the funds generated by the tax went to the general fund. The governor's budget came in this year and there were found some big differences between the governor's proposal and what was seen in the bill. It was going to put them on a general fund. That was not approved. She thought ultimately there was a motion on the Human Services subcommittee to move the department's proposal on their certain decision packages and it did not get one vote. The decision was at the Appropriations subcommittee that **REP. CLARK's** HB 180 ended up "killing a few birds with one stone." It would guarantee the million dollars, it would allow leveraging by the local programs of the funds that the department may have in other ways been able to leverage against Medicaid, but it would provide the stability while simultaneously provide the historical amount and allow programs leveraging of those funds. The decision was ultimately that the tax being allocated this way would achieve what the goals were.

SEN. GRIMES asked if Rimrock also provided the assessment course treatment for drunk drivers. **Ms. Blazer** believed they did, but that it was not through the alcohol excise tax money.

Mr. Rupert said there was no tax involved with the assessment course treatment for drunk drivers. It just had to be a state-approved program. In Billings there were two, which would be Rimrock and the Mental Health Center. Rimrock gives alcohol tax to detox and because they were state approved they could provide that to the school, as did the mental health center.

SEN. GRIMES asked if it then indirectly helped those programs.

Mr. Rupert said it was supposed to be self-sufficient and thought it was. They deliberately tried not to supplement tax money.

SEN. GRIMES asked what the consequences were using state approved programs. **Mr. Rupert** said there were state approved programs and there were licensed counselors. There were programs that were not state approved that had licensed counselors as well. Only state approved programs were eligible for the alcohol tax money. The idea with that was a way to limit administrative non-clinical costs and it was a way to eliminate duplication. He thought Mental Health had discovered that by opening up to anybody that it reduces the efficiency. Part of the reason the state approved alcohol programs were successful was because they had the alcohol tax money as a base and because they had a state approval system that limited who was eligible to receive the alcohol tax money. The federal money can be given to non-state approved programs.

SEN. GRIMES read Page 4, Line 14, "payment for fees for alcoholism services provided by state approved private or public alcoholism programs and licensed hospitals with detox services," and said that was talking about the remainder of the funds. He said this seemed to go farther than state approved programs. He asked if that were beyond the first million dollars. **Mr. Rupert** said that was the remainder. That was not the money that comes to the state. He said that was under (c). The first 20% off the top comes to the county programs. What was left over, the remainder of funds, HB 180 then went into how that money was spent.

SEN. GRIMES said that would be a little broader. **Mr. Rupert** said absolutely.

SEN. GRIMES said there were licensed hospitals and some private alcoholism or public alcoholism programs that were going to be funded by the first million that could see some benefits. **Mr. Rupert** said non-state approved programs could receive some of that alcohol tax money after that top 20% went to just the state approved programs.

SEN. GRIMES asked if **Mr. Rupert** already knew the amounts that went to the existing programs, and clarified anything that came in over the million dollars, that would be given out on a percentage basis. He wanted to understand why the existing programs would not get the additional money so they could be branching out after that first million dollars. **Mr. Rupert** said before this bill they were at the tail end of things. He said it went to the department, they spend it for MCDC, they spend it for whatever, and then whatever was left over came to them. It had been a million dollars until a couple years ago where it increased some and that was where the dual diagnosis came in. There was extra money and rather than giving to the existing programs, the dual diagnosis category was created. It had been stable for the past 18 years.

SEN. GRIMES said in the future the percentages could be adjusted in the bill. **Mr. Rupert** said on the other hand if the alcohol revenue were going up that meant drinking was going up, if drinking were going up, then the programs were going to have more business. There was a correlation there and so the programs would deserve more money.

SEN. BOHLINGER was still concerned about adequate funding. He divided a million dollars by 27 approved treatment facilities that was \$37,000 per unit. **Mr. Rupert** said Boyd Andrews served three counties and represented 6% of the state's population. He

said they got \$69,000 a year from the alcohol tax, but they had other sources of income besides that.

SEN. BOHLINGER said looking at the study that **Mr. Newhouse** provided and all the known and unknown costs, how could the problem be addressed with such a small amount of money. **Mr. Rupert** said he agreed but did think HB 180 should be altered to achieve that.

SEN. TRUDI SCHMIDT, SD 21, Great Falls, asked if Ms. Jamison would address the question of money. **Ms. Jamison** agreed it was not enough money and asked what program had enough money funded by public tax dollars in the state right now. She said the programs would love the percent to be 90 or 100% or have additional funding from other sources. She said it was understood those questions of public policy existed outside this bill and were addressed through other bills dealing with tax policy in the state. **Ms. Jamison** said the answer was yes, it was a small amount of money but they were willing to make do because they wanted to be treated fairly and could continue to provide the services.

SEN. SCHMIDT said she had a bill that dealt with methamphetamine treatment and wanted to know if the bill addressed other treatment of drugs other than alcohol. **REP. CLARK** said in the programs dealt mainly with alcohol because that was what they were charged to study.

SEN. SCHMIDT asked **Mr. Rupert** to respond. **Mr. Rupert** said Boyd Andrews treated chemical dependency, not alcohol dependency, so the money was used for any kind of chemical dependency they encountered. He said the money could be potentially used to treat those with meth addictions.

Closing by Sponsor:

REP. CLARK said this worked in the past and reaffirmed the desire to stabilize it.

HEARING ON HB 542

Sponsor: **REP. EDITH CLARK, HD 88, Sweetgrass**

Proponents: **Judy Bolewicz, MT Occupational Therapy Program**
Terry Caulkins, MT Occupational Therapy Program
Nate Naprsteck, Occupational Therapist
Beda Lovitt, Physicians of the Montana Medical Association

Jani McCall, Billings Deaconess Clinic
Steve Anderson, Physical Therapist
Amy Sullivan, Occupational Therapist
Mona Jamison, MT Physical Therapist Association

Opponents: None.

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, read highlights from written testimony outlining HB 542, telling what the bill did, the education involved, the history, ethics, and what and who supported the position. **EXHIBIT(phs50a05)**

Proponents' Testimony:

Judy Bolewicz, MT Occupational Therapy Program, President, went through the bill and highlighted some of the changes. She said Page 1 updated some of the definitions and wanted to go with more of the Model Practice Act from the American Occupational Therapy Association. On Page 2, Lines 6-7 talked about remediation and restoration of performance abilities that were limited due to a pyramid of biological, physiological, psychological, or neurological processes. They agreed with the physical therapists and took out orthopedic as it was redundant. More updates from the Model Practice Act on Line 10. They did not feel it was sufficient to say "teaching daily living skills," and wanted to be more specific about what they did with that. They updated prosthetics and assisted technology because there was now more assisted technology to use in rehabilitation of patients. On Page 3, Line 11, the use of prescribed topical medications was a new area because they had not used those before but wanted to use them to make their intervention with patients more effective. Further down on Line 26, occupational therapy was concerned with the purposeful goal-directed activities and felt it needed to be included there. Page 4, Lines 7-8, the use of sound and electrical, physical modalities were talked about. Those have been used in the past over the last 12 years. They had been limited to using them from the elbow, wrist, and hand and now were going to use them at the shoulder as well, so that the whole upper extremity could be used. Lined 22 started the new section that covered topical medication and it listed out the ways in which those could be used. The new section of the Board Adoption of Protocols where they had to be able to work with the Board of Pharmacy in dispensing the medications for topical application.

Terry Caulkins, MT Occupational Therapy Program read and submitted her written testimony **EXHIBIT(phs50a06)** and submitted a chart showing what was practiced in each state regarding their

requirements for use of physical agent modalities.

EXHIBIT (phs50a07)

{Tape: 2; Side: A}

Nate Naprsteck, Occupational Therapist, read and submitted his written testimony. **EXHIBIT** (phs50a08)

Beda Lovitt, Physicians of the Montana Medical Association, congratulated the physical therapists and the occupational therapists for working hard together to come up with solutions to their conflicts. She thought the changes made in changing the scope of practice for occupational therapists was a good one. What the occupational therapists were asking to do was supported by their education, their training, and experience. It created safe healthcare and she urged for support of this bill.

Jani McCall, Deaconess Billings Clinic, said they were also pleased with the solution the occupational and physical therapists could come up with. DBC strongly valued the occupational therapy services in their organization and they employed OT's in the hospital in the transitional care unit, occupational medicine, physical rehabilitation, and the orthopedic clinic.

Steve Anderson, Physical Therapist, President of the Montana Chapter of the American Physical Therapy Association, said the process would work. He thanked the occupational therapists and the physical therapists for coming up with language that worked. He was pleased to represent the PT's in supporting HB 542.

Amy Sullivan, Occupational Therapy Association Manager, said OT's working for the Federal government could not perform those procedures, which meant an OT who worked for Indian Health Services could not provide those treatments from a reservation in Montana. An OT working for the VA Hospital and Malmstrom Air Force Base could not perform those treatments. The current OT practices were archaic, punitive, and access denied at a time when they are struggling to attract healthcare providers and the Occupational Therapy Practice Act had shut the door on many OT's. Licensed OT members in the state of Montana had plummeted from 262 to 213 since 2000, which was about 17%. Ms. Sullivan said that as the association manager, she got calls frequently from OT's wanting to practice in Montana, and when she described what they could and could not do in Montana, they decided not to move here. She received a letter from an OT in Boise who wanted to move here, but he said in no uncertain terms that it was shocking to him that Montana did not allow the procedures that HB 542 would allow. She received another letter from a doctor in

Billings who considered his OT an expert on orthopedic shoulder issues and the OT had done a chapter in this doctor's book. She said there was bipartisan support on the bill and that the bill was about access.

Mona Jamison, MT Physical Therapist Association, said she could summarize her testimony on three words: "Peace was possible."

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. ESP asked if the OT's were licensed by the Board of Occupational Therapy. **REP. FRANKLIN** said yes, and also the occupational therapy aides and assistants.

Closing by Sponsor:

REP. CLARK said the experts from both sides worked hard on this and did a beautiful job. She said **SEN. KEENAN** had agreed to carry the bill on the floor should it be concurred in.

EXECUTIVE ACTION ON HB 542

Motion/Vote: **SEN. BOHLINGER** moved that HB 542 BE CONCURRED IN.
Motion carried 5-0.

EXECUTIVE ACTION ON HJ 13

Motion/Vote: **SEN. HARRINGTON** moved that HJ 13 BE CONCURRED IN.
Motion carried 5-0.

{Tape: 2; Side: B}

ADJOURNMENT

Adjournment: 4:30 P.M.

SEN. JERRY O'NEIL, Chairman

ANDREA GUSTAFSON, Secretary

JO/AG

EXHIBIT (phs50aad)